



Forest Tax & Stewardship News

Fall 2008

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I Have a Mandatory Practice Coming Due, Now What?

by Richard LaValley
DNR Forest Tax Law Field Manager

So you have land enrolled under the Managed Forest Law (MFL) or Forest Crop Law (FCL) program and have a practice scheduled in a couple of years. You may be asking, what happens next? How do I know what to do? The purpose of this article is to walk you through the process, how landowners are notified, what to expect, and maybe a little advice to make things go smoothly.

A year or two before a mandatory practice comes due, the DNR forester may verify whether the practice is still needed. If the forester is familiar with you and your property or the management plan is fairly new, he or she will already have a good idea if the practice is warranted or makes sense. If your plan is pretty old or the DNR forester is not very familiar with your property, he or she may visit your land to verify the practice. If your trees did not grow as predicted in your plan, the forester will call or write explaining what was observed and your future management options. If necessary, you and your forester will work together to amend your management plan to reflect the newest information.

In the first few months of the year prior to your scheduled practice, the DNR forester will send you a letter or give you a call. He or she will remind you of the practice, provide information on assistance, and discuss the expectation for commencing or completing the practice. DNR foresters are required to refer all commercial timber harvests to cooperating consulting foresters. Your name will be placed on a referral list that is mailed to cooperating foresters. The cooperating foresters will contact you and offer their services for a fee. They will also notify the department that they have made you an offer. If a consulting forester makes an offer to help you establish the timber sale, the DNR forester is prohibited from setting up the sale (even if you turn down the reasonable offer).

If no offer is made by a cooperating forester by January of the year your practice is due, the DNR forester will work directly with you to establish the harvest (if workload allows). Your DNR forester will provide you with estimated volumes, sample timber sale contracts, and advice on what it takes to make a successful harvest. It will fall to you to administer the harvest or arrange for someone to administer your harvest for you.

If the scheduled practice is not a commercial timber harvest, the DNR

Emerald Ash Borer in Wisconsin

The emerald ash borer (EAB) was discovered for the first time in Wisconsin in early August, 2008. The beetle and beetle larvae were found at a private home in Ozaukee County, Wisconsin.

EAB is an invasive insect native to Asia. An adult is 1/2 to 3/4 of an inch in length and is metallic green in color. It is a wood-boring beetle that attacks all of Wisconsin's native ash tree species.

The beetle has killed an estimated 20 million ash trees in Canada and the Great Lakes states. EAB is a slow-moving insect; however, the rate of spread has been increased by transportation on infested materials and firewood.

For up-to-date news on this invasive insect, frequently asked questions, and land management options, visit the Wisconsin EAB Program website at:

<http://www.emeraldashborer.wi.gov>.



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Photo credit: Paul Wray, Iowa State University, Bugwood.org

A Note from the Editor:

Many of the articles in this newsletter emphasize the relationship between the landowner and the DNR forester. Whether it is completing a mandatory practice, understanding changes to a program, determining what is allowed on your property, or selling/withdrawing a piece of your land, it is extremely important for both you and your local DNR forester to be informed. Asking questions, sharing information, and being aware of all implications of any actions will help you to succeed in the Managed Forest Law or Forest Crop Law program and help you to sustainably manage your land. For a list of DNR foresters, please refer to the following website:
<http://dnr.wi.gov/forestry/ftax/county.asp>.

We hope you enjoy this edition of the Forest Tax & Stewardship News!

– Julie Polasky

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DNR Tree & Shrub Applications

Seedlings Available
 Starting October 1
 Contact your DNR forester or order
 online at: <http://dnr.wi.gov/forestry/nursery/order/index.htm>

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forester will work directly with you to coordinate any necessary outside expertise and help you to implement the practice. Examples of non-timber sale practices include erosion control measures, tree plantings, or non-commercial release of seedlings.

If your DNR forester has not heard from you by the first of the year that your practice is due, he or she will send you a second letter. This letter will stress that the practice is due by the end of that year and describe measures that you need to take to remain in compliance with the MFL program.

If your forester has still not heard from you and your practice becomes past due, he or she can certify to the municipality where your land is located that you are non-compliant and that a penalty of \$250.00 can be added to your next year's property tax bill.

If you still do not attempt to comply or communicate legitimate reasons for failing to comply, you may eventually be withdrawn from the FCL or MFL program and become subject to all withdrawal taxes and fees.

Communication is critical for success in all woodland management activities. Let your local DNR forester, consulting forester and logger know what is going on, what you would like to see happen, and what barriers you are having. The

conversations you have will help all parties understand and react positively. Good dialog will help to ensure that all goes well and that no one is surprised by the end result. Remember that it is important to keep everyone in the loop.

The department's goal in giving landowners multiple opportunities to complete mandatory practices is to help you successfully manage your lands. The DNR wants to see you implement sound forest management and have a rewarding experience. After all, we believe that it is good for the forest, the wildlife, you, and society.



Photo Credit: Richard LaValley, WDNR

The right side of the road was recently thinned and the left side is scheduled for a commercial timber sale. Merrill School Forest.

Withdrawing Land from the Managed Forest Law

by Ryan Conner
DNR Forest Tax Program Specialist

Land enrolled under the Managed Forest Law (MFL) may be voluntarily withdrawn from MFL designation prior to the completion of the 25-year or 50-year order period. Withdrawal from MFL results in a withdrawal tax and fee, which is billed to you, the landowner. It is important to understand the rules for withdrawing your land from the program to avoid unwanted withdrawals and to be prepared for the associated withdrawal tax. You should always remember to contact your local DNR forester to understand the possible consequences and to determine if a withdrawal is necessary.

Land being withdrawn from MFL must meet one of the following conditions:

- An entire contiguous parcel of MFL land, or
- All MFL land within the legal description (quarter-quarter section, government lot, or fractional lot), or
- An entire MFL order.

If there is MFL land remaining after the withdrawal and it is either less than 10 acres or less than 80% productive forest, then that land must also be withdrawn.

You can request withdrawal from MFL by printing out and completing the Declaration of Withdrawal – Managed Forest Law (form 2450-140).

This form can be found online at <http://dnr.wi.gov/forestry/ftax/forms.htm> or at your local DNR forester's office. Withdrawal requests can be submitted at any time during the year, but must be

received by the Forest Tax Section by December 1 in order to be effective the following January 1.

Do not complete the withdrawal form unless you are certain that you want the land removed from MFL designation. Once this form is signed

and submitted, your land will be withdrawn from the MFL program. The process cannot be reversed. Once your withdrawal form is processed, an MFL withdrawal order will be issued which notifies your local government that the land will be returning to the regular tax roll. An invoice for the withdrawal tax plus a \$300 withdrawal fee will be sent to you approximately six to twelve weeks after you receive the order.

Please note that a withdrawal tax and fee are not assessed for land sold for use as a public road, railroad, or utility right-of-way or land sold to a government agency for use as a park, recreation trail, wildlife or fish habitat area, or public forest.

The withdrawal tax is calculated by one of several methods, depending on how long the land was enrolled and the type of MFL order. Your local DNR forester cannot provide you with a withdrawal tax estimate, but will be able to provide you with your MFL order type and general withdrawal information. If you find out that your land was a regular MFL entry, there is a worksheet available online at <http://dnr.wi.gov/forestry/ftax/forms/MFLWithdrawalTax.pdf> to help you estimate the withdrawal tax. The tax will be the higher of either a) 5% of the estimated value of merchantable timber on the property or b) a calculation based on the assessed value and tax rate for the land and the number of years enrolled.

Typically, the withdrawal tax can be thought of as “repaying the back taxes” for the period the land was enrolled. If you withdraw the land only a few years after enrollment however, the 5% estimate can be higher. You will receive credits for the reduced taxes paid while in MFL, as well as any taxes paid for timber harvested while enrolled. You will not receive credit for any closed acreage fees incurred if the land was closed to public access. The withdrawal invoice is usually due to the department by the following January 31. Withdrawal invoices that go unpaid will be submitted to the county treasurer and handled in the same manner as delinquent property taxes.

Please remember that your property is still enrolled in MFL until the effective date listed on the withdrawal order. You are still obligated to the rules and regulations associated with the MFL program, (e.g. approval of cutting notices, timber harvesting, building restrictions) until the effective date of the order **OR** until you have paid your withdrawal tax and fee in full. If your property is enrolled as “open” to public use, it must remain open until the effective date of the order, regardless of when the withdrawal tax is paid.

Withdrawal from the Managed Forest Law is not a decision to take lightly. Remember to contact your local DNR forester for additional guidance.



**Do we have your current address?
Please send address changes to:**

Forest Tax Section, Wisconsin Department of Natural Resources, P.O. Box 7963, Madison, WI 53707

Top Five Reasons for Involuntary Withdrawals (or Ask Before You Act)

by Carol Nielsen
DNR Private Forestry Specialist

Each year, the Forest Tax Section issues over 300 orders withdrawing land from the Managed Forest Law (MFL) and Forest Crop Law (FCL) programs. Most withdrawal orders are issued at the request of the landowner. Along with these voluntary withdrawals, however, there are 40 to 50 involuntary withdrawals issued every year. These involuntary withdrawals are issued because the landowner failed to comply with the rules of the program and/or the land is no longer eligible. Almost all of these involuntary withdrawal orders are avoidable. The following are the top five reasons for involuntary withdrawals and some actions that can be taken to help avoid them.

Top 5 involuntary withdrawal reasons:

- 1). **Partitioning.** The MFL or FCL entry is divided in a manner not allowed under the law.
- 2). **Failure to file an MFL or FCL transfer form.** The law requires that the new owner(s) certify their intent to comply with the law and the management plan for the land within 10 to 30 days of acquiring the land.
- 3). **Failure to complete mandatory forest management practices or conducting a practice or activity without approval.** Mandatory practices are described in the management plan prepared for the land when it was enrolled in the FCL or MFL program. You should be aware that some conditions may change which can require a change in the forestry practices needed, such as a salvage harvest required after storm or fire damage.
- 4). **Land no longer meets eligibility requirements.** Each parcel of contiguous MFL land must be at least 10 acres and must meet the productive forest requirements.

Problems with the eligibility requirements most commonly occur when only part of an MFL entry is sold or when a new tree planting is unsuccessful.

- 5). **Land developed for a use that is incompatible with the practice of forestry.** Examples are a primary or secondary residence, agricultural crops and grazing, commercial recreation, quarry or mining, etc.

How to avoid involuntary withdrawals:

- 1). Read your plan and ask questions of your DNR forester if there is anything you don't understand or want more information about.
- 2). Learn about the obligations and rules of the program.
- 3). Consult with your DNR forester before carrying out any forestry or other practice on your MFL or FCL land to receive advice, find out what the requirements are and to be sure what you want to do is in compliance with the program.
- 4). Consult with your DNR forester before building on or developing any part of your MFL or FCL land.
- 5). Consult with your DNR forester before selling or transferring any ownership interest in your MFL or FCL land. Be sure that what you want to do will be approvable under the rules of the program.
- 6). When buying forest land, check to see if it is in the MFL or FCL program and follow through with required paperwork.
- 7). When selling MFL or FCL land, let the buyers know and encourage them to contact the DNR forester.
- 8). Pay attention to the letters and warnings given by DNR foresters. They are trying to help you avoid an involuntary withdrawal.

- 9). Be sure that your DNR forester has your current contact information.

An involuntary withdrawal will include a substantial withdrawal tax. It is not possible to give an average withdrawal tax because each is based on the value and property tax rates that apply to the specific property. The tax becomes larger with each additional year the land is in the program and some withdrawal taxes have been as high as 30% to 40% of the property value. **PLEASE ASK BEFORE YOU ACT.**

If you have any questions, please contact your local DNR forester or Ken Symes, forest tax law enforcement specialist, at (608) 266-8019.



2009 Yield & Severance Tax Rates

By Kathy Nelson
DNR Forest Tax Section Chief

New Forest Crop Law severance and Managed Forest Law yield tax rates will go into effect on November 1, 2008 and will be effective through October 31, 2009. Severance and yield taxes are collected by the department and are returned to the local municipality as partial payment of taxes that landowners deferred while their trees were growing. These rates will soon be available online at:
<http://dnr.wi.gov/forestry/ftax/yieldrates.htm>

The Conservation Reserve Program and the Managed Forest Law

by Ken Symes
DNR Forest Tax Law Enforcement Specialist

Lands designated as Managed Forest Law (MFL) may also be enrolled in the Conservation Reserve Program (CRP) as long as landowners are allowed to practice sound forestry.

CRP is a voluntary program available through the USDA Farm Service Agency (FSA). It is used to help safeguard environmentally sensitive cropland by planting "...long term, resource conserving covers to improve the quality of water, control soil erosion, and enhance wildlife habitat. In return, FSA provides participants with rental payments and cost share assistance."¹

In most cases these two programs are compatible; however, landowners should take caution. Sometimes, the two programs are not compatible and could have conflicting requirements and restrictions.

It is important for landowners considering entry into both programs to familiarize themselves with the rules and requirements and then determine how their individual properties fit into each framework. It is important to research these details ahead of time, since violations could result in financial consequences from **both** programs.

Here are some examples to consider. Recently the USDA made a decision to allow grazing on CRP lands in flood regions. Grazing, however, is not allowed on MFL lands. Landowners who allow grazing on MFL lands are subject to penalties and possible withdrawal if grazing continues.

The CRP program has requirements and restrictions for weed control on CRP tree plantings. This is one of the most common areas where inadvertent violations occur. For example, a landowner with a plantation may need to control competing grasses by mowing to ensure tree survival for the MFL



Photo Credit: Paul Wray, Iowa State University, Bugwood.org

program. CRP rules restrict mowing to dates outside of the nesting seasons after the plantation has passed final status review (there are exceptions for spot mowing). Landowners who mow to control competing grasses during the nesting season will be meeting the requirements of the MFL program, but may be in violation of their CRP contract. Consult with your local FSA office and your local DNR forester before doing any weed control that could be a violation of the CRP program.

Program provisions that are allowed on MFL land may not be allowed on CRP land. An example is the decking of wood during a timber harvest. CRP lands are not allowed to be used as a landing area for forest products. This is not the case with MFL lands where sustainable harvesting is encouraged.

In the MFL program, up to 20% of a parcel can be considered non-productive land. Non-productive land, such as a fallow field, is not eligible for entry into CRP. Since the field will not be planted to trees and cannot be farmed under MFL rules, FSA considers the land incompatible with their program, as CRP is essentially a farming program.

At the end of the CRP contract, the landowner has the choice to renew the contract. If the land still meets MFL eligibility requirements and renewing the contract in no way puts their MFL eligibility at risk, the landowner may renew the CRP contract.

These differences are minor, but it is important that when landowners are considering a timber sale or any other activities on MFL or CRP lands, that they consult with their local DNR forester and FSA office to make sure their actions do not jeopardize their continued entry in either program.



¹United States. USDA Farm Service Agency.

"Conservation Programs."

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=crp-sp> (accessed July 9, 2008).

Notice!

Seek your DNR forester's advice before buying, selling or transferring tax law land. This will help you avoid unwanted withdrawals and penalties.